IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5060 OF 2004

Dhanaji Patangrao Phadtare
and another ... Applicants

versus

State of Maharashtra and ors. ... Respondents

...

Mr. A.M. Joshi, for the Applicants.

Mr. S.R. Shinde, A.P.P., for the Respondents.

...

CORAM : A.M.KHANWILKAR,J.

6th December 2004

P.C.:

. Heard Counsel for the parties. This application is being considered only at the instance of Applicant No. 1, inasmuch as by order dated November 25, 2004, Applicant No. 2 has already been released. Insofar as Applicant No. 1 is concerned, reliance was placed on the medical certificate issued by Dr. Tasgaonkar, Medical Officer, Rural Hospital, Vaduj, District Satara dated 23rd November 2004 to contend that

the victim suffered simple injury and it has been so certified by that doctor. This position was, however, controverted by the learned A.P.P. placing reliance on the earlier certificate issued by the same doctor dated 3rd November 2004 which describes the injury as grievous injury, having regard to the nature of injury referred to therein. Besides, it is pointed out that the certificate dated 3rd November 2004 will be part of charge sheet, including the statement of the concerned doctor, Dr. Tasgaonkar. The fact remains that the certificate issued in earlier point of time dated 3rd November 2004 cannot be disputed. The nature of injury as described therein is reiterated even in the subsequently issued certificate by the same doctor dated 23rd November 2004, but has been wrongly described as simple. Having regard to the nature of injury, it cannot be described anything but grievous injury. If it is so, having regard to the seriousness of the offence and material to implicate the Applicant No. 1 in the commission of the said offence, and as the investigation is still in progress, not a case for bail sofar as Applicant No. 1 is concerned. Hence, dismissed.

. The investigating officer shall examine the circumstances in which the subsequent certificate has been issued by the same Dr. Tasgaonkar on 23rd November 2004 which is obviously at the instance of the accused. The discrepancy in two certificates issued by the same doctor are inexplicable and matter of concern, especially when it is a Court case. After necessary inquiry, the authorities may take appropriate action against the concerned doctor, if so advised, in accordance with law. Original certificates are returned to the learned A.P.P. for taking appropriate action against the concerned doctor.

(A.M.KHANWILKAR,J.)